

1 Adopt 2 Cal. Code Regs. Section 18329.5 to read:

2 **18329.5. Commission Advice Procedure - Government Code sections 87300-87306.**

3
4 In addition to 2 Cal. Code Regs. section 18329, the following procedures apply to
5 requests for formal written advice (“advice”) or informal assistance (“assistance”)
6 regarding Government Code sections 87300 through 87306.

7 (a) Agencies and Code Reviewing Bodies.

8 The Commission may render advice or assistance to an agency, a code reviewing
9 body or an authorized representative regarding the provisions of Government Code
10 section 87302, as follows:

11 (1) To a code reviewing body;

12 (2) To an agency and its code reviewing body that jointly submit a written
13 request;

14 (3) To a state agency and local multi-county agency for which the
15 Commission is the code reviewing body; and

16 [(4) **Decision 1** To an agency that notifies its code reviewing body prior to
17 making a request and that submits the request prior to submission of its conflict of
18 interest code to the code reviewing body for adoption or amendment. A request under
19 this subdivision is limited to informal assistance, which will be declined unless both of
20 the requirements of this subdivision are met.]

21 (b) Individuals.

22 (1) The Commission may render advice or assistance directly to an individual
23 when the request pertains to a designated employee’s reporting requirements or a
24 determination of whether the individual is:

1 (A) A public official pursuant to 2 Cal. Code Regs. section 18701;
2 (B) Subject to the disqualification provisions of Government Code sections
3 87100 and 87103; or
4 (C) Subject to the gift limits of Government Code section 89503.
5 (2) Notwithstanding 2 Cal. Code Regs. section 18730(b)(11) and subdivision
6 (b)(1) above, an individual may only request advice or assistance as to his or her agency's
7 determination that he or she has obligations under a conflict of interest code by jointly
8 submitting a written request with his or her agency or its authorized representative. An
9 individual or agency must notify the appropriate code reviewing body prior to making a
10 request and must submit the request prior to submission of the agency's conflict of
11 interest code to the code reviewing body for adoption or amendment or the request will
12 be declined. The request is limited to informal assistance unless an individual, agency
13 and the appropriate code reviewing body or their authorized representative submit a joint
14 written request.
15 (3) In addition to the procedures set forth above, specific procedures may be
16 applicable to employees of state and local multi-county agencies as set forth in 2 Cal.
17 Code Regs. sections 18750 or 18750.1.
18 (c) Section 87200 : "Other Public Officials Who Manage Public Investments"
19 (1) Notwithstanding the above, the Commission shall render advice or
20 assistance to a public official who is subject to Government Code section 87200.
21 (2) Advice or assistance that determines an individual is not a "public official
22 who manages public investments" pursuant to Government Code section 87200 is not a
23 determination that an individual must file a disclosure statement under a conflict of

1 interest code. The agency or code reviewing body must make that determination as part
2 of the process for amending or adopting a code and may request advice or assistance
3 pursuant to the procedure in subdivision (a) above.

4 (d) Requests.

5 The requestor may be asked to provide the following information when requesting
6 advice or assistance pursuant to this regulation:

7 (1) A copy of all pertinent agency determinations regarding an individual's
8 obligations under Chapter 7 of the Act.

9 (2) A copy of an individual's employment contract;

10 (3) A copy of an individual's duty statement;

11 (4) A copy of the applicable conflict of interest code; and

12 (5) Any other pertinent information.

13 COMMENT: An individual potentially subject to a conflict of interest code may
14 petition the agency to amend its code. An individual may appeal a denied petition to the
15 code reviewing body and may also seek judicial review of an action taken by the code
16 reviewing body (Government Code sections 87307 and 87308).

17
18 NOTE: Authority cited: Government Code section 83112.
19 Reference: Sections 83114(b), 87300 to 87306, Government Code.
20
21
22